



# Focus

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## Assessing Your Water Right

Water right assessments are made for different reasons. Property owners may verify a water right for newly purchased land or water users may seek to change or transfer an existing right. Sometimes the assessment is a step that is taken in a water right adjudication, a Washington State Superior Court proceeding. This focus sheet will provide you with information to start your research into the validity and extent of a water right or water right claim. Please note: there is a special discussion on water right claims at the end of this document.

The water right document is the place to begin your research. This document describes the maximum limits of the right, as well as the provisions governing the use of that water. Copies of water right documents may be obtained from the Washington Department of Ecology. However, your research shouldn't end with the water right document. You should also make an independent evaluation of the historical use of water on your property.

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### The water right document

The following measurable elements of a water right are described on most water right documents: a priority date; a fixed point of withdrawal (ground water) or diversion (surface water); quantities (both instantaneous and annual); a defined place of use; period of use; purpose(s) of use; and provisions which govern the use, such as installation of a metering device or fish screen.

You will need to verify that these elements of the water right are compatible with how water is and has been used on the property. A water right may not be enlarged, but water rights are sometimes reduced through actions taken by previous property owners. Conducting this assessment may help protect your property interests.

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### Changes to water rights

Changes can be made to the point of withdrawal or diversion, purpose(s) of use, and place of use by obtaining prior approval from the state. These changes or transfers would be noted in Ecology's files, although at times there are inevitable delays before changes and transfers are reflected in the state's records.

Other types of changes may not be documented in Ecology's files, but nevertheless could limit the availability of water for your use. Subdividing property, developing formerly irrigated lands, changing crop types or irrigation methods, or switching over to public water supply systems are all examples of changes in use which would not necessarily be reflected in Ecology's records.

For all the above reasons, Ecology cannot guarantee that the elements described on a water right document are available to you. That is why your next step in a water right assessment should be an independent evaluation of the historical use of water under your water right document. You want to make sure that the actions of a previous owner have not affected your water right.

### **Historical use of water**

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Washington's water law contains a principle that a water right is perfected, defined, and maintained through beneficial use. At a minimum, here are some basic questions that you should ask yourself before making plans to rely on an existing water right.

- When did the water use first begin on the property?
- Who were the previous owners and how did they use the water?
- Is the water use today consistent with each element described on the water right document?
- Has there been five or more successive years of non-use? If so, what was the reason?

Don't rely on a water right document until you have made this evaluation. If you currently own a water right, you may be required to defend the history of water use in an adjudication of water rights, when requesting to make changes to a water right document, and/or if the issue of relinquishment is raised. Relinquishment is the return of unused waters to the state.

### **Special discussion on Water Right Claims**

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Assessing water right claims can be more complicated because a claim is not a water right, but is a statement filed by a property owner that a water right may exist. Ultimately the validity of claimed water rights will be determined through called a *general water right adjudication*. In an adjudication the court may confirm a water right and direct Ecology to issue a Certificate of Adjudicated Water Right. Only a small portion of Washington's 165,000 claims have been adjudicated and there is no current timeframe to adjudicate the remaining claims. If you are researching a claim document, ask the same questions listed in the historical use section above. It may be particularly important to document when the water was first put to use, and the quantities of water used at the time of perfection. The county auditor's office allows you to record documentation of historical water use.

### **For more information**

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To request other related Ecology publications, contact Ecology's Publication Office at (360) 407-7472.

- Q&A: *Water Rights in Washington*, Publication # 96-1804-S&WR
- Q&A: *Water Right Claims*, Publication # 97-2022-S&WR
- Focus sheet: *Water Right Relinquishment*, Publication # 97-1805-WR
- Focus sheet: *Assessing Your Water Right*, Publication # 97-1804-WR
- Focus sheet: *Washington's Water Resource, The Water Right Permit Exemption*, Publication # F-WR-92-104
- Ecology Report: *The 1997 Opening of the Water Right Claims Registry*, Publication #97-1806-WR

*If you have special accommodation needs or require this document in alternative format, please contact Felicia Curtis at (360) 407-6199 (Voice) or (360) 407-6006 (TDD).*